



1926

Recommendations Of The New York Crime Commission/Peace Treaties/Courts And Constitution/Premium Rate Adjustments

North Dakota Law Review

Follow this and additional works at: <https://commons.und.edu/ndlr>

Recommended Citation

North Dakota Law Review (1926) "Recommendations Of The New York Crime Commission/Peace Treaties/Courts And Constitution/Premium Rate Adjustments," *North Dakota Law Review*: Vol. 3 : No. 8 , Article 5.

Available at: <https://commons.und.edu/ndlr/vol3/iss8/5>

This Note is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact und.common@library.und.edu.

some seemingly absurd or extravagant or contradictory statement of fact from a hostile witness, an over zealous cross-examiner proceeds to rectify for the opposition all the damage done to the credibility of the witness and to the merits of his side of the case, by asking him for an explanation of the inconsistency."

If that be a pitfall of trial practice, as designated by Mr. Harry O. Chamberlin of Indiana, what becomes of our code of ethics and of the theory that a lawyer is an officer of the court rather than an exponent of legal maneuvers or tactics?

State Bar Association meets at Grand Forks, September 6 and 7.

CORRECTIONS FOR POPULAR EDITION OF LAWS

Mr. Chas. Liessman, assistant Secretary of State, offers the following corrections for the popular edition of the 1927 Session Laws:

The paging at 255 and 256 should be reversed; also at 528 and 529.

The following changes should be made in the index: On page 554 strike out "No. 140, Chap. 134, Page 170"; on page 561 change word "land" to "seed" in third line from bottom; on page 568, under heading "Appeals", insert "State Geologist, control artesian waters, . . . p. 80"; on page 574, under "Board of Administration," third line, change word "Highway" to "Library"; on page 579, under "Governor", first line, insert "open and close" in place of "of foreclosure."

On page 19, eleventh line from bottom, strike out "and the items of \$4,300 for gasoline tax auditor".

State Bar Association meets at Grand Forks, September 6 and 7.

RECOMMENDATIONS OF THE NEW YORK CRIME COMMISSION

Bail should not be granted in cases of conviction by a jury.

"Jumping bail" should be made a felony in cases where the charge is a felony.

Prisons and other penal institutions should be classified upon the basis of psychiatric study.

Sharp distinctions should be made between parole on indeterminate sentence and release of second and third offenders.

The trial judge should be permitted to comment on the evidence and the character of the witnesses, as the interests of justice may require.

Trial should be made for a five year period by dealing with paroles through a full-time parole board, with a sufficient staff and proper legislative appropriations for the work, in order to determine the effectiveness of such a system.

In future "persons shall not be placed on probation, nor have sentence suspended nor the execution of sentence withheld, if convicted of murder, or of arson, burglary, rape or robbery in the first degree or of kidnapping, except where the person is a parent or blood relative, or of compulsory prostitution, or if convicted as a second or subsequent offender, or if convicted of a felony while armed with a weapon, or if convicted a second time either of any of the eight misdemeanors or offenses connected with professional crime as set forth in the so-called

Bail Laws, such offenses as possessing burglars' tools, unlawful possession of a pistol, unlawful entry, etc."

State Bar Association meets at Grand Forks, September 6 and 7.

PEACE TREATIES

The American Foundation has just submitted the following questions: 1. Do you think that the United States should endorse the principle (expressed in the Locarno treaties) that every dispute of an international character can be settled by some peaceful method? 2. Do you think that it follows that the United States should omit from treaties looking toward pacific settlement the traditional clause exempting questions affecting "vital interests, independence or national honor?"

Our reply to these questions was as follows:

Certainly every dispute, no matter how vital to interest, independence or national honor, should be settled by some peaceful method. But, in order to settle questions that seriously involve disputants, the tribunal making the determination needs, or may need, power to enforce its decision. Even in private affairs our Supreme Courts frequently are the last resorts only because there is power to enforce their judgments. There are many today who have no faith in our courts, yet they are required to abide by their decisions. Can the citizenship of the various countries be expected to acquire a faith in the tribunal that may be established to settle international disputes such as would never require the threat of power to enforce, to say nothing of its actual use to enforce?

Question one might be put to every nation, and the majority in each might agree that the answer should be "yes", but such support of the general principle would not suffice. There must exist the "will to settle", which, of course, includes the will to abide by the decision: OR there must be some power to compel the disputants to accept the decision. Even with the present exemption eliminated, the collective "will" of our own people at a particular time is going to determine whether such treaties are "scraps of paper".

State Bar Association meets at Grand Forks, September 6 and 7.

COURTS AND CONSTITUTION

Mr. Conrad Wolf, writing on the above subject for the June issue of the Indiana Law Journal, which appears to be an answer to a "court usurpation" speech made by a U. S. Senator in a Flag Day address before the American Federation of Labor, summarizes the rules laid down by our Courts in passing upon constitutional questions, and we summarize further, to-wit:

1. There must be actual parties before the court, with an actual controversy, with rights actually to be decided, not mere speculations or intellectual disputes. There must be personal or property rights actually to be decided and affected by the judgment.

2. The courts will presume that Congress (or the Legislature) has kept within its constitutional limitations, and will resolve every reasonable doubt in favor of the constitutionality of the law.

3. The courts will give such construction to the law, as to bring it within the terms of the Constitution, if that reasonably can be done,

rather than to give it a construction that will make it unconstitutional.

4. The courts will not state what the law ought to be but what the rights of the individual parties involved in the particular law suit are.

5. The courts will not inquire into the motives or the reasons for passing a law. They will not undertake to determine the wisdom or the policy of the law, but will take it as they find it.

6. Congress (or the Legislature) has the power to pass tyrannical, oppressive or unjust laws, and the same will be law unless they come in conflict with the fundamental law plainly established by the Constitution.

Certain it is that many fail or refuse to understand that the fundamental law must stand above what a few of us occasionally may deem to be the "higher interests of humanity". Certain it is, also, at least to the practicing lawyer, that court usurpation needs to be feared far less than legislative usurpation, for the courts very graciously evade the constitutional issues when the rights of the parties litigant before them can be determined by decision on other questions.

State Bar Association meets at Grand Forks, September 6 and 7.

PREMIUM RATE ADJUSTMENTS

The North Dakota Workmen's Compensation Bureau made its premium rate adjustments recently, effective July 1st, 1927. Rates were reduced in twenty classifications and increased in thirty-one classifications. Dividends were provided as follows: 10% in fourteen classifications, 20% in sixteen classifications, and 30% in fifteen classifications.

Assuming that the payrolls for the coming year will be approximately the same as those for the past year, in the different lines of business, the net result of these adjustments will be an increase of approximately \$13,360.00 in premium receipts in the classifications in which the rates were increased, and a decrease of about \$51,510.00 in premium receipts for the classifications in which rates were decreased or dividends granted, or both. In other words, there will be a net reduction in compensation premium collections of about \$38,000.00 for the new year.

It has been estimated that the effect of Senate Bill No. 65, providing for reduction of the maximum amounts payable for injuries to workmen, will result in reducing the cost of all injuries about twenty per cent. As the law will be operative for only the latter half of 1927, such anticipated cost reduction would run to about \$50,000.00 for that year. The net decrease in premium requirements hereinbefore referred to will, therefore, represent a 75% approximation of such anticipated cost reduction. This is about as close an approximation as could reasonably be expected at this time.

State Bar Association meets at Grand Forks, September 6 and 7.

NEWS NOTES

Lord Hewart of Bury, Lord Chief Justice of England, will be one of the speakers at the American Bar Association meeting.